

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

**JACKSON SHRUM, an individual, and)
REBECCA SHURM, an individual,)
)
Plaintiffs,)
)
vs.) **11-CV-794-TCK-FHM**
)
AMERICAN NATIONAL PROPERTY)
AND CASUALTY COMPANY,)
)
Defendant.)**

PLAINTIFFS' SECOND AMENDED COMPLAINT

COME NOW the Plaintiffs, Jackson and Rebecca Shrum, and for their cause of action against Defendant, allege and state as follows:

STATEMENT OF FACTS

1. That on or about March 23, 2011, Plaintiffs purchased a 1996 Ford Mustang.
2. That on or about April 20, 2011, Plaintiffs purchased a policy of automobile insurance for his 1996 Ford Mustang with Audre Davis doing business as Davis & Associates.
3. That at the time of this transaction, Audre Davis was an agent for Defendant American National Property and Casualty Company ("ANPAC").
4. That the policy of insurance purchased by Plaintiffs was to cover, among other things, damages to their vehicle, including damage that would have occurred as a result of a fire.
5. That on or about May 3, 2011, Plaintiffs' Ford Mustang caught fire, was burned and was a total loss.
6. That Plaintiffs timely notified Defendant of the damage to the insured vehicle.

7. That Plaintiffs made a claim with Defendant ANPAC under the terms and rights of their policy to be compensated for the total loss of his 1996 Ford Mustang due to the fire.

8. That after being notified by Plaintiffs of the loss, Defendant opened a file to investigate its claim number 35A29C595.

9. That following its investigation, Defendant ANPAC notified Plaintiffs of its denial of their claim for benefits in a letter dated August 17, 2011.

10. That in the letter denying coverage, Defendant falsely alleged that Plaintiffs intentionally caused his loss.

11. That in the letter denying coverage, Defendant falsely alleged that Plaintiffs intentionally misrepresented and concealed the cause of the loss.

12. That in the letter denying coverage, Defendant falsely alleged that Plaintiffs intentionally misrepresented and concealed material facts and circumstances surrounding the loss.

13. That in the letter denying coverage, Defendant falsely alleged that Plaintiffs misrepresented and concealed his activity leading up to and after the loss.

14. That in the letter denying coverage, Defendant falsely alleged that Plaintiffs misrepresented and concealed material facts regarding his financial condition at the time of the loss.

15. That in the letter denying coverage, Defendant falsely alleged that the loss was not an accidental loss of, or damage to, Plaintiffs' vehicle.

16. That Plaintiff Jackson Shrum seeks to amend his complaint to include his wife, Rebecca Shrum, as a co-plaintiff pursuant to Fed. R. Civ. P. 15(a)(2) which allows the same when written consent is given by opposing counsel, which Plaintiff has received.

FIRST CAUSE OF ACTION: NEGLIGENCE

Plaintiffs adopt and incorporate all allegations and statements of fact as fully set out herein, and further allege:

16. That Defendant owed Plaintiffs a duty to conduct its business activities as a reasonable and prudent person or entity providing the same or similar services.
17. That Defendant breached its duty owed to Plaintiffs by negligently investigating and evaluating their claim for benefits under the automobile policy.
18. That as a direct result of Defendant's negligence, Plaintiffs suffered damages in excess of \$75,000.00.

SECOND CAUSE OF ACTION: BREACH OF CONTRACT

Plaintiffs adopt and incorporate all allegations and statements of fact as fully set out herein, and further allege:

19. That on or about April 20, 2011, Plaintiffs entered into a contract of automobile insurance with Defendant through its agent, Audre Davis d/b/a Davis & Associates.
20. That Plaintiffs fulfilled their duties under the contract by paying Defendant premiums on the insurance coverage.
21. That after investigating and evaluating the claim of their insured, Defendant improperly denied Plaintiffs the benefits provided for in the contract of insurance between Plaintiffs and Defendant.
22. That Defendant's denial of benefits constituted a breach of the contract between Plaintiffs and Defendant.
23. That as a direct result of Defendant's breach, Plaintiffs suffered damages in an amount less than \$75,000.00 in not receiving the benefits contracted for.

THIRD CAUSE OF ACTION: BAD FAITH AND UNFAIR DEALING

24. That under the contract for automobile insurance entered into between the parties, Defendant was required to pay Plaintiffs' claim.
25. That Defendant's refusal to pay the claim in full was unreasonable under the circumstances because it did not perform a proper investigation.
26. That Defendant's refusal to pay the claim in full was unreasonable under the circumstances because it did not properly evaluate Plaintiffs' claim.
27. That Defendant's refusal to pay the claim in full was unreasonable under the circumstances because it had no reasonable basis for the refusal.
28. That Defendant did not deal fairly and in good faith with Plaintiffs.
29. That the violation by Defendant of its duty of good faith and fair dealing directly caused harm to Plaintiffs in an amount in excess of \$75,000.00.

WHEREFORE, premises considered, Plaintiffs seek judgment against Defendant ANPAC in an amount in excess of \$75,000.00 plus court costs, pre-judgment and post-judgment interest and any further relief this Court deems equitable and just.

Respectfully submitted,

MARTIN, JEAN & JACKSON

s/ Scott Jackson

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CERTIFICATE OF SERVICE BY MAIL

I hereby certify that on the 9th day of March, 2012, I electronically transmitted the attached document to the Clerk of the Court using the ECF Systems for filing. Based on the records currently on file, the Clerk of the Court will transmit a Notice of Electronic Filing to the following ECF registrants, via email:

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Attorneys for Defendant

s/ Scott Jackson

Scott R. Jackson